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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,996	01/28/2004	Valerie Molto	1948-4836	5018
27123	7590	08/08/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			LE, KHANH H	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	<b>Application No.</b> 10/766,996	<b>Applicant(s)</b> MOLTO ET AL.	
	<b>Examiner</b> Khanh H. Le	<b>Art Unit</b> 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>07 February 2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-4 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Hayami et al. (Pub. No. US 2002/0163814 A1).

3. With respect to claim 1, Hayami discloses a vehicle lighting apparatus having two passing headlights (swivel lamp, Fig. 2, item 30), two auxiliary headlights (fixed lamp, Fig. 2, item 20), and a central unit (electronic control unit, Fig. 1, item 2). The two passing headlights are adapted to pivot about a substantially vertical axis (left to right, Par. 0023, lines 4-5). The two auxiliary headlights are for producing an auxiliary regulation lighting beam (Par. 0037, lines 2-4). The central unit extinguishes the passing headlight when it detects failure of the passing headlight (Par. 0064) and produces a compensating light beam by the un-defected headlights (Par. 0063).

4. With respect to claim 2, Hayami discloses when the central unit detects failure of a passing headlight in the deflected position, the central unit will change the form of the light beam by adjusting the optical axis of the headlights downward from the horizontal by about  $0.74^{\circ}$ ~ $0.87^{\circ}$  (Par. 0056, lines 10-24). The central unit will also change the normal passing headlight by approximately  $1.5^{\circ}$  to  $2^{\circ}$  toward the right from the front (Par. 0063, line 1-7).

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5. With respect to claim 3, Hayami discloses a vehicle lighting apparatus having a range corrector (leveling mechanism, Fig. 2, item 5) that adapted to modify the inclination of the cruising beam with respect to a horizontal longitudinal plane. If failure is detected in either one of the swivel lamps, the central unit will deflect the light beam to the downward direction (Par. 0063, lines 1-4).

6. With respect to claim 4, Hayami discloses a vehicle lighting apparatus having the cut-off line is substantially coincident with the horizontal longitudinal plane ( $0.74^{\circ}\sim 0.87^{\circ}$  below the horizontal plane, Par. 0056, lines 16-24) in the compensating beam mode.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claim 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Hayami in view of Ito (US Patent No. 5,833,345).

10. With respect to claim 5, Hayami discloses a vehicle lighting apparatus having a conventional discharge bulb (Fig 2, item 23) and a halogen bulb (item 33) enclosed in a housing that has a conventional lens (item 12) but does not disclose using the headlight with an image-reproducing optic and occulting device. Ito teaches to use the headlight with the image-reproducing optic (Fig.4) for the purpose of improving the appearance of the automobile (Col. 1, lines 39-44). Ito further teaches one of the occulting devices included in the headlight with the image-reproducing optic as the cut-off edge (light intercepting member, item 50), which defines the upper cut-off line of the light beam produced by the cruising headlight (Col. 5, lines 5-10). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the headlight of Hayami to include the type of image-reproducing optic as taught by Ito in order to improve the appearance of the automobile and the type of occult device or light intercepting member as taught by Ito in order to provide a low-beam cutting line.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Sato (US Patent No. 5,549,646), Biggs et al. (US Patent No. 3,737,653), Kobayashi (US Patent No. 5,436,807), Toda et al. (US Patent No. 6,305,823), Kondo et al. (US Patent Publication No. US 2002/0057573 A1), Fleury (US Patent No. 3,614,416), Speak et al. (US Patent 5,868,488).

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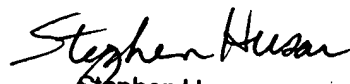
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is (571) 272-8325. The examiner can normally be reached on Monday - Friday, 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khanh H. Le  
Examiner  
Art Unit 2875

KHL

  
Stephen Husar  
Primary Examiner